

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 01/17/01?
- b. The request was received on 01/11/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC-60a/b and Letter Requesting Dispute Resolution dated 01/07/02
 - b. UB-92s
 - c. EOBs
 - d. Reimbursement data (EOBs from other carriers)
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC-60a/b
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. The requestor and respondent filed all their documentation with the initial request and response. All documentation will be considered timely.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 01/07/02
 - a. "The (Carrier) has unfairly reduced our bill when other workers' compensation carriers have established that our charges are fair and reasonable because they are paying 85%-100% of our billed charges."

2. Respondent: Per EOB
 - a. “Per TWCC Rule 134.1(f), services not in an established fee guideline shall be reimbursed at fair and reasonable reimbursement. FORTE’ recommends reimbursement equal to two surgical Per Diem days for outpatient surgical procedures as fair and reasonable.”

IV. FINDINGS

1. Based on Commission Rule 133.307 (d) (1-2), the only date of service eligible for review is 01/17/01.
2. The provider billed a total of \$8,260.97 on date of service 01/17/01.
3. The carrier reimbursed a total of \$2,236.00. The Carrier’s EOB has the denial “M - Per TWCC Rule 134.1(f), services not in an established fee guideline shall be reimbursed at fair and reasonable reimbursement. FORTE’ recommends reimbursement equal to two surgical Per Diem days for outpatient surgical procedures as fair and reasonable. The amount paid is equal to or exceeds the payment required under Texas Workers’ Compensation Act (TWCA) statutory standard for payment of medical providers.”
4. The total amount in dispute is \$6,024.97, the difference between the billed amount and the reimbursement received.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Section 413.011 (d) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

The provider has submitted reimbursement data to document what they consider fair and reasonable reimbursement. The provider has submitted EOBs from other carriers, these indicate that the provider has accepted from 85% to 100% of the billed amount as fair and reasonable reimbursement. The provider’s documentation does provide some evidence of fair and reasonable reimbursement.

The Carrier has also submitted reimbursement data to document what they consider fair and reasonable reimbursement, and to comply with Commission Rule 133.304 (i)(1-4). The carrier

compares the amount of reimbursement the provider received with the amount of reimbursement the Medical Fee Guidelines allow for two days hospital per diem for inpatient surgery. The carrier has submitted their methodology and though, the entire methodology may not necessarily be concurred in by the Medical Review Division, the requirements of the referenced Rule have been met.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine based on the parties' submission of information, which party has provided the more persuasive evidence. Both parties to the dispute have submitted documentation in support of their position. However, the carrier's documentation meets the additional criteria of Sec. 413.011(d) of the Texas Labor Code, "to achieve effective medical cost control." Therefore, no additional reimbursement is recommended.

The above Findings and Decision are hereby issued this 9th day of May, 2002.

Larry Beckham
Medical Dispute Resolution Officer
Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.